

**UNITED STATES DISTRICT COURT**  
**Western District of North Carolina**

UNITED STATES OF AMERICA

v.

EMERSON AUBREY BELK

) **JUDGMENT IN A CRIMINAL CASE**  
 ) (For Offenses Committed On or After November 1, 1987)  
 )  
 )  
 ) Case Number: DNCW122CR000027-001  
 ) USM Number: 96368-509  
 )  
 ) Fredilyn Sison  
 ) Defendant's Attorney

FILED  
ASHEVILLE, NC**THE DEFENDANT:**

- Pleaded guilty to Count 1.
- Pleaded nolo contendere to count(s) which was accepted by the court.
- Was found guilty on count(s) after a plea of not guilty.

U.S. DISTRICT COURT  
W. DISTRICT OF N.C.**JUL 20 2022**

**ACCORDINGLY**, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Counts
18 U.S.C. § 13 N.C.G.S. § 20-141.4(a2)	Misdemeanor Death by Vehicle	7/26/2021	1

The Defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 S.Ct. 738 (2005), and 18 U.S.C. § 3553(a).

- The defendant has been found not guilty on count(s).
- Count(s) (is)(are) dismissed on the motion of the United States.

**IT IS ORDERED** that the Defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 7/18/2022

Title of Signing Officer  
United States District Court

Magistrate Judge W. Carleton Metcalf  
Date: July 20, 2022



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## PROBATION

Defendant shall be placed on a term of probation for ONE (1) YEAR.

- The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

## CONDITIONS OF SUPERVISION

The defendant shall comply with the mandatory conditions that have been adopted by this court:

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court (unless omitted by the Court).
4. The defendant shall cooperate in the collection of DNA as directed by the probation officer (**OMITTED BY THE COURT**).

The defendant shall comply with the additional following conditions:

5. The defendant shall pay restitution, in accordance with 18 USC Section 3663, in the amount of \$2,751.47.
6. The defendant shall complete 250 hours of community service. The probation officer will supervise the defendant's participation in the program (including, but not limited to, approving the program, agency, or location, and frequency of participation therein). The defendant shall provide written verification of the completed hours to the probation officer.
7. The defendant shall take part in a defensive driving course of at least eight (8) hours that is approved by the probation office.
8. The defendant may visit the Blue Ridge Parkway but is not to operate a motor vehicle himself on the Parkway during the term of his probation.
9. The defendant's probation will begin as supervised probation. Once his community service has been completed, his restitution has been paid, and his defensive driving course has been completed, the defendant may petition the Court to convert the remaining term of his probation to unsupervised probation

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### CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	RESTITUTION	FINE
\$10.00	\$2,751.47	\$0.00

The determination of restitution is deferred until. Upon such a determination an *Amended Judgment in a Criminal Case* (AO 245C) will be entered. Failing such a determination by, restitution amount becomes \$0.00 without further Order of the Court.

### INTEREST

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

■ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

- The interest requirement is waived.
- The interest requirement is modified as follows:

### COURT APPOINTED COUNSEL FEES

The defendant shall pay court appointed counsel fees.

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### RESTITUTION PAYEES

The defendant shall make restitution to the following payees in the amounts listed below:

<u>NAME OF PAYEE</u>	<u>AMOUNT OF RESTITUTION ORDERED</u>
Todd and Tracie Bolduc	\$2,751.47

Joint and Several Restitution is Ordered as follows:

- Defendant and Co-Defendant Names and Case Numbers (*including defendant number*) if appropriate:
- Associated Defendant Name(s) and Case Number(s) (*including defendant number*) if appropriate:
- Court gives notice that this case may involve other defendants who may be held jointly and severally liable for payment of all or part of the restitution ordered herein and may order such payment in the future.

The victims' recovery is limited to the amount of their loss and the defendant's liability for restitution ceases if and when the victim(s) receive full restitution. Any payment not in full shall be divided proportionately among victims.

Pursuant to 18 U.S.C. § 3364(i), all nonfederal victims must be paid before the United States is paid.

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## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A  Lump sum payment of \$0.00 due immediately, balance due
  - Not later than July 19, 2023.
  - In accordance  (C),  (D) below; or
- B  Payment to begin immediately (may be combined with  (D) below); or
- C  Payment in equal monthly installments of \$50.00 to commence 60 days after the date of this judgment; or
- D  In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, payments shall be made in equal monthly installments of \$50.00 to commence 60 days after release from imprisonment to a term of supervision. The U.S. Probation Officer shall pursue collection of the amount due, and may request to modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court costs:
- The defendant shall forfeit the defendant's interest in the following property to the United States

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 1301, Charlotte, NC 28202, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

**The Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.**

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

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#### STATEMENT OF ACKNOWLEDGMENT

I understand that my term of supervision is for a period of \_\_\_\_\_ months, commencing on \_\_\_\_\_.

Upon a finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) \_\_\_\_\_ Date: \_\_\_\_\_  
Defendant

(Signed) \_\_\_\_\_ Date: \_\_\_\_\_  
U.S. Probation Office/Designated Witness